

NO. 25697

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

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OFFICE OF DISCIPLINARY COUNSEL, Petitioner,

vs.

JAMES G. CHING, Respondent.

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ODC 97-283-5477, 99-134-5964

ORDER OF SUSPENSION

(By: Moon, C.J., Levinson and Nakayama, JJ., Circuit Judge Blondin, in place of Acoba, J., who is unavailable, and Circuit Judge Crandall, assigned by reason of vacancy)

Upon consideration of (1) the Disciplinary Board's report and recommendation for the suspension of Respondent James G. Ching (Respondent Ching) from the practice of law for a period of one year and one day, (2) Respondent Ching's lack of objection as exhibited by his failure to request briefing as permitted by Rule 2.7(d) of the Rules of the Supreme Court of Hawai'i (RSCH), and (3) the record, we conclude that Petitioner Office of Disciplinary Counsel (Petitioner ODC) proved by clear and convincing evidence that, while Respondent Ching represented Anthony T. Carvalho and Ronald Ewe, Respondent Ching committed the following violations of the Hawai'i Rules of Professional Conduct (HRPC):

- two violations of HRPC Rule 1.3 (requiring a lawyer to act with reasonable diligence);
- two violations of HRPC Rule 1.4(a) (requiring a lawyer to keep a client reasonably informed about the status of a matter and promptly comply with requests for information);

- five violations of HRPC Rule 1.15(a)(1) (requiring a lawyer in private practice to maintain a trust account separate from business or personal accounts);
- two violations of HRPC Rule 1.15(b) (requiring a lawyer in private practice to label each trust account, as well as deposit slips and checks drawn thereon, as "client trust account");
- three violations of HRPC Rule 1.15(c) (prohibiting a lawyer from commingling or misappropriating client funds);
- three violations of HRPC Rule 1.15(c) (requiring a lawyer to deposit unearned or disputed client funds into a client trust account);
- three violations of HRPC Rule 1.15(d) (requiring a lawyer to deposit all client funds and unearned retainer fees into a client trust account);
- five violations of HRPC Rule 1.15(f)(3) (requiring a lawyer to maintain complete records of all client funds for at least six years after completion of the employment to which they relate);
- one violation of HRPC Rule 1.15(f)(4) (requiring a lawyer to promptly deliver to the client the funds in the possession of the lawyer that the client is entitled to receive);
- two violations of HRPC Rule 1.15(g) (requiring a lawyer to maintain several specifically enumerated types of financial records for at least six years after completion of the employment to which they relate);

- two violations of HRPC Rule 1.16(d) (requiring a lawyer to refund unearned fees to a client upon termination of representation);
- one violation of HRPC Rule 3.2 (requiring a lawyer to make reasonable efforts to expedite litigation);
- two violations of HRPC Rule 8.1(b) (prohibiting a lawyer from knowingly failing to respond to a lawful demand for information from a disciplinary authority);
- eighteen violations of HRPC Rule 8.4(a) (prohibiting a lawyer from violating the rules of professional conduct);
- six violations of HRPC Rule 8.4(c) (prohibiting a lawyer from engaging in dishonesty fraud, deceit, or misrepresentation); and
- two violations of HRPC Rule 8.4(d) (prohibiting a lawyer from failing to cooperate during the course of an ethics investigation).

In addition, Respondent Ching demonstrated a disturbing pattern of recidivism in his professional misconduct, as evidenced by the five previous letters of informal admonition that Petitioner ODC issued to Respondent Ching in ODC 3677 (October 12, 1993), ODC 3883 (December 1, 1993), ODC 4189 (September 13, 1994), ODC 4784 (January 26, 1998), and ODC 4791 (March 28, 1996). Therefore,

IT IS HEREBY ORDERED that Respondent James G. Ching is suspended from the practice of law in this jurisdiction for a period of one (1) year and one (1) day, effective thirty (30) days after entry of this order, as provided by RSCH Rule 2.16(c).

IT IS FURTHER ORDERED that, before Respondent Ching may apply for reinstatement, he must, in addition to all other standards for reinstatement in RSCH Rule 2.17, successfully complete at his own expense (1) the Practicing Attorneys Liability Management Society's practice management/law office audit program and (2) the supreme court's RSCH Rule 1.14 mandatory professionalism course.

DATED: Honolulu, Hawai'i, May 2, 2003.